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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 2nd December, 2004.

BILL No. 93 OF 2004

A Bill further to amend the Unlawful Activities (Prevention) Act, 1967.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2004.

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 21st day of September, 2004.

37 of 1967.

2. In the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the principal Act), in the long title, after the word “associations”, the words “, and for dealing with terrorist activities,” shall be inserted.

Amendment
of long title.

5 of 1898.

3. In the principal Act, for the words and figures “Code of Criminal Procedure, 1898”, wherever they occur, the word “Code” shall be substituted.

Substitution of
word “Code”
for “Code of
Criminal Pro-
cedure, 1898”.

Amendment
of Chapter I.

Short title,
extent and
application.

4. In Chapter I of the principal Act, for sections 1, 2 and 2A, the following sections shall be substituted, namely:—

'1. (1) This Act may be called the Unlawful Activities (Prevention) Act, 1967. 37 of 1967.

(2) It extends to the whole of India.

(3) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(4) Any person, who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(5) The provisions of this Act apply also to—

(a) citizens of India outside India;

(b) persons in the service of the Government, wherever they may be; and

(c) persons on ships and aircrafts, registered in India, wherever they may be.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "association" means any combination or body of individuals;

(b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;

(c) "Code" means the Code of Criminal Procedure, 1973;

2 of 1974.

(d) "court" means a criminal court having jurisdiction, under the Code, to try offences under this Act;

(e) "Designated Authority" means such officer of the Central Government not below the rank of Joint Secretary to that Government, or such officer of the State Government not below the rank of Secretary to that Government, as the case may be, as may be specified by the Central Government or the State Government, by notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "proceeds of terrorism" means all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found, and includes any property which is being used, or is intended to be used, for the purpose of a terrorist organisation;

(h) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, and includes cash and bank account;

(i) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India;

(j) "State Government", in relation to a Union territory, means the Administrator thereof;

(k) "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and "terrorist" shall be construed accordingly;

(l) "terrorist gang" means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;

(m) "terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;

(n) "Tribunal" means the Tribunal constituted under section 5;

(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India;

(p) "unlawful association" means any association,—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;

(q) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

5. In section 5 of the principal Act, in sub-section (7), for the word and figures "Chapter XXXV", the word and figures "Chapter XXVI" shall be substituted.

Amendment of section 5.

6. For section 10 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 10.

"10. Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,—

Penalty for being member of an unlawful association, etc.

(a) a person, who—

(i) is and continues to be a member of such association; or

(ii) takes part in meetings of such association; or

(iii) contributes to, or receives or solicits any contribution for the purpose of, such association; or

(iv) in any way assists the operations of such association,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and

(b) a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,—

(i) and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;

(ii) in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.”.

Substitution of
new Chapters
and Schedule
for Chapter IV.

7. For Chapter IV of the principal Act, the following Chapters and the Schedule shall be substituted, namely:—

‘CHAPTER IV

PUNISHMENT FOR TERRORIST ACTIVITIES

Terrorist act

15. Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

Punishment
for terrorist
act.

16. (1) Whoever commits a terrorist act shall,—

(a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment
for raising
fund for
terrorist act.

17. Whoever raises fund for the purpose of committing a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for
conspiracy, etc.

18. Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for
harbouring,
etc.

19. Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

20. Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for being member of terrorist gang or organisation.

21. Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for holding proceeds of terrorism.

22. Whoever threatens any person who is a witness or any other person in whom such witness may be interested, with violence, or wrongfully restrains or confines the witness, or any other person in whom the witness may be interested, or does any other unlawful act with intent to cause any of the said acts, shall be punishable with imprisonment which may extend to three years, and shall also be liable to fine.

Punishment for threatening witness.

23. (1) If any person with intent to aid any terrorist contravenes any provision of, or any rule made under the Explosives Act, 1884 or the Explosive Substances Act, 1908 or the Inflammable Substances Act, 1952 or the Arms Act, 1959, or is in unauthorised possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall, notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Enhanced penalties.

4 of 1884.
6 of 1908.
20 of 1952.
54 of 1959.

(2) Any person who, with intent to aid any terrorist, attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section (1), shall be deemed to have contravened that provision under sub-section (1) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to "imprisonment for life" therein shall be construed as a reference to "imprisonment for ten years".

CHAPTER V

FORFEITURE OF PROCEEDS OF TERRORISM

24. (1) No person shall hold or be in possession of any proceeds of terrorism.

Forfeiture of proceeds of terrorism.

(2) Proceeds of terrorism, whether held by a terrorist or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI, shall be liable to be forfeited to the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

25. (1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.

Powers of investigating officer and Designated Authority and appeal against order of Designated Authority.

(2) The investigating officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property.

(3) The Designated Authority before whom the seized or attached property is produced shall either confirm or revoke the order of seizure or attachment so issued within a period of sixty days from the date of such production:

Provided that an opportunity of making a representation by the person whose property is being seized or attached shall be given.

(4) In the case of immovable property attached by the investigating officer, it shall be deemed to have been produced before the Designated Authority, when the investigating officer notifies his report and places it at the disposal of the Designated Authority.

(5) The investigating officer may seize and detain any cash to which this Chapter applies if he has reasonable grounds for suspecting that—

(a) it is intended to be used for the purposes of terrorism; or

(b) it forms the whole or part of the resources of a terrorist organisation:

Provided that the cash seized under this sub-section by the investigating officer shall be released within a period of forty-eight hours beginning with the time when it is seized unless the matter involving the cash is before the Designated Authority and such Authority passes an order allowing its retention beyond forty-eight hours.

Explanation.—For the purposes of this sub-section, “cash” means—

(a) coins or notes in any currency;

(b) postal orders;

(c) traveller’s cheques;

(d) banker’s drafts; and

(e) such other monetary instruments as the Central Government or, as the case may be, the State Government may specify by an order made in writing.

(6) Any person aggrieved by an order made by the Designated Authority may prefer an appeal to the court within a period of thirty days from the date of receipt of the order, and the court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property.

26. Where any property is seized or attached on the ground that it constitutes proceeds of terrorism and the court confirms the order in this regard under sub-section (6) of section 25, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached, is prosecuted in a court for an offence under Chapter IV or Chapter VI.

27. (1) No order forfeiting any proceeds of terrorism shall be made under section 26 unless the person holding or in possession of such proceeds is given a notice in writing informing him of the grounds on which it is proposed to forfeit the proceeds of terrorism and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter.

(2) No order of forfeiture shall be made under sub-section (1), if such person establishes that he is a *bona fide* transferee of such proceeds for value without knowing that they represent proceeds of terrorism.

Court to order forfeiture of proceeds of terrorism.

Issue of show cause notice before forfeiture of proceeds of terrorism.

(3) It shall be competent for the court to make an order in respect of property seized or attached,—

(a) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code shall, as nearly as may be practicable, apply to the net proceeds of such sale;

(b) nominating any officer of the Central Government or the State Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the court.

28. (1) Any person aggrieved by an order of forfeiture under section 26 may, within one month from the date of the receipt of such order, appeal to the High Court within whose jurisdiction, the court, which passed the order appealed against, is situated. Appeal.

(2) Where an order under section 26 is modified or annulled by the High Court or where in a prosecution instituted for any offence under Chapter IV or Chapter VI, the person against whom an order of forfeiture has been made under section 26 is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefor as if the property had been sold to the Central Government with reasonable interest calculated from the day of seizure of the property and such price shall be determined in the manner prescribed.

29. The order of forfeiture made under this Chapter by the court, shall not prevent the infliction of any other punishment to which the person affected thereby is liable under Chapter IV or Chapter VI. Order of forfeiture not to interfere with other punishments.

30. (1) Where any claim is preferred or any objection is made to the seizure or attachment of any property under section 25 on the ground that such property is not liable to seizure or attachment, the Designated Authority before whom such property is produced, shall proceed to investigate the claim or objection: Claims by third party.

Provided that no such investigation shall be made where the Designated Authority considers that the claim or objection is designed to cause unnecessary delay.

(2) Where an appeal has been preferred under sub-section (6) of section 25 and any claimant or objector establishes that the property specified in the notice issued under section 27 is not liable to be forfeited under this Chapter, the said notice shall be withdrawn or modified accordingly.

31. The Designated Authority, acting under the provisions of this Chapter, shall have all the powers of a civil court required for making a full and fair inquiry into the matter before it. Powers of Designated Authority.

32. Where, after the issue of an order under section 25 or issue of a notice under section 27, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purpose of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited, the transfer of such property shall be deemed to be null and void. Certain transfers to be null and void.

33. (1) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, if not already attached under this Chapter. Forfeiture of property of certain persons.

(2) Where a person has been convicted of any offence punishable under Chapter IV or Chapter VI, the court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Central Government or the State Government, as the case may be, free from all encumbrances.

Company to transfer shares to Government.

34. Where any share in a company stand forfeited to the Central Government or the State Government, as the case may be, under this Chapter, then, the company shall, on receipt of the order of the court, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Central Government or the State Government, as the case may be, as the transferee of such share.

1 of 1956.

CHAPTER VI

TERRORIST ORGANISATIONS

Amendment of Schedule, etc.

35. (1) The Central Government may, by order, in the Official Gazette,—

(a) add an organisation to the Schedule;

(b) add also an organisation to the Schedule, which is identified as a terrorist organisation in a resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, to combat international terrorism;

(c) remove an organisation from the Schedule;

(d) amend the Schedule in some other way.

(2) The Central Government shall exercise its power under clause (a) of sub-section (1) in respect of an organisation only if it believes that it is involved in terrorism.

(3) For the purposes of sub-section (2), an organisation shall be deemed to be involved in terrorism if it—

(a) commits or participates in acts of terrorism, or

(b) prepares for terrorism, or

(c) promotes or encourages terrorism, or

(d) is otherwise involved in terrorism.

Denotification of a terrorist organisation.

36. (1) An application may be made to the Central Government for the exercise of its power under clause (c) of sub-section (1) of section 35 to remove an organisation from the Schedule.

(2) An application under sub-section (1) may be made by—

(a) the organisation, or

(b) any person affected by inclusion of the organisation in the Schedule as a terrorist organisation.

(3) The Central Government may prescribe the procedure for admission and disposal of an application made under this section.

(4) Where an application under sub-section (1) has been rejected the applicant may apply for a review to the Review Committee constituted by the Central Government under sub-section (1) of section 37 within one month from the date of receipt of the order of such refusal by the applicant.

(5) The Review Committee may allow an application for review against rejection to remove an organisation from the Schedule, if it considers that the decision to reject was flawed when considered in the light of the principles applicable on an application for judicial review.

(6) Where the Review Committee allows review under sub-section (5) by or in respect of an organisation, it may make an order to such effect.

(7) Where an order is made under sub-section (6), the Central Government shall, as soon as the certified copy of the order is received by it, make an order removing the organisation from the Schedule.

Review Committees.

37. (1) The Central Government shall constitute one or more Review Committees for the purposes of section 36.

(2) Every such Committee shall consist of a Chairperson and such other members not exceeding three and possessing such qualifications as may be prescribed.

(3) A Chairperson of the Committee shall be a person who is, or has been, a Judge of a High Court, who shall be appointed by the Central Government and in the case of appointment of a sitting Judge, the concurrence of the Chief Justice of the concerned High Court shall be obtained.

38. (1) A person, who associates himself, or professes to be associated, with a terrorist organisation with intention to further its activities, commits an offence relating to membership of a terrorist organisation:

Offence relating to membership of a terrorist organisation.

Provided that this sub-section shall not apply where the person charged is able to prove—

(a) that the organisation was not declared as a terrorist organisation at the time when he became a member or began to profess to be a member; and

(b) that he has not taken part in the activities of the organisation at any time during its inclusion in the Schedule as a terrorist organisation.

(2) A person, who commits the offence relating to membership of a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

39. (1) A person commits the offence relating to support given to a terrorist organisation,—

Offence relating to support given to a terrorist organisation.

(a) who, with intention to further the activity of a terrorist organisation,—

(i) invites support for the terrorist organisation, and

(ii) the support is not or is not restricted to provide money or other property within the meaning of section 40; or

(b) who, with intention to further the activity of a terrorist organisation, arranges, manages or assists in arranging or managing a meeting which he knows is—

(i) to support the terrorist organisation, or

(ii) to further the activity of the terrorist organisation, or

(iii) to be addressed by a person who associates or professes to be associated with the terrorist organisation; or

(c) who, with intention to further the activity of a terrorist organisation, addresses a meeting for the purpose of encouraging support for the terrorist organisation or to further its activity.

(2) A person, who commits the offence relating to support given to a terrorist organisation under sub-section (1) shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

40. (1) A person commits the offence of raising fund for a terrorist organisation, who, with intention to further the activity of a terrorist organisation,—

Offence of raising fund for a terrorist organisation.

(a) invites another person to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(b) receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(c) provides money or other property, and knows, or has reasonable cause to suspect, that it would or might be used for the purposes of terrorism.

Explanation.—For the purposes of this sub-section, a reference to provide money or other property includes of its being given, lent or otherwise made available, whether or not for consideration.

(2) A person, who commits the offence of raising fund for a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding fourteen years, or with fine, or with both.

CHAPTER VII

MISCELLANEOUS

Continuance
of association.

41. An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power to
delegate.

42. The Central Government may, by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under section 7, or section 8, or both, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing, direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

Officers
competent to
investigate
offences
under
Chapters IV
and VI.

43. Notwithstanding anything contained in the Code, no police officer,—

(a) in the case of the Delhi Special Police Establishment, constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946, below the rank of a Deputy Superintendent of Police or a police officer of equivalent rank;

25 of 1946.

(b) in the metropolitan areas of Mumbai, Kolkata, Chennai and Ahmedabad and any other metropolitan area notified as such under sub-section (1) of section 8 of the Code, below the rank of an Assistant Commissioner of Police;

(c) in any case not relatable to clause (a) or clause (b), below the rank of a Deputy Superintendent of Police or a police officer of an equivalent rank,

shall investigate any offence punishable under Chapter IV or VI.

Protection of
witnesses.

44. (1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held *in camera* if the court so desires.

(2) A court, if on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a court may take under that sub-section may include—

(a) the holding of the proceedings at a place to be decided by the court;

(b) the avoiding of the mention of the name and address of the witness in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witness are not disclosed;

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

45. No court shall take cognizance of any offence—

(i) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;

(ii) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and where such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

Cognizance of offences.

46. Notwithstanding anything contained in the Indian Evidence Act, 1872 or any other law for the time being in force, the evidence collected through the interception of wire, electronic or oral communication under the provisions of the Indian Telegraph Act, 1885 or the Information Technology Act, 2000 or any other law for the time being in force, shall be admissible as evidence against the accused in the court during the trial of a case:

Admissibility of evidence collected through the interception of communications.

Provided that the contents of any wire, electronic or oral communication intercepted or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court unless each accused has been furnished with a copy of the order of the competent authority under the aforesaid law, under which the interception was directed, not less than ten days before trial, hearing or proceeding:

Provided further that the period of ten days may be waived by the judge trying the matter, if he comes to the conclusion that it was not possible to furnish the accused with such order ten days before the trial, hearing or proceeding and that the accused shall not be prejudiced by the delay in receiving such order.

47. (1) Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate, shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction.

(2) Notwithstanding anything contained in sub-section (1), no civil court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters referred to in section 36.

48. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Effect of Act and rules, etc., inconsistent with other enactments.

49. No suit, prosecution or other legal proceeding shall lie against—

(a) the Central Government or a State Government or any officer or authority of the Central Government or State Government or District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate or any other authority on whom powers have been conferred under this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder; and

Protection of action taken in good faith.

1 of 1872.

13 of 1885.
21 of 2000.

(b) any serving or retired member of the armed forces or para-military forces in respect of any action taken or purported to be taken by him in good faith, in the course of any operation directed towards combating terrorism.

Saving.

50. Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the navy, army or air force or other armed forces of the Union.

Impounding of passport and arms licence of person charge-sheeted under the Act.

51. Notwithstanding anything contained in any other law for the time being in force, the passport and the arms licence of a person, who is charge-sheeted for having committed any offence under this Act, shall be deemed to have been impounded for such period as the court may deem fit.

Power to make rules.

52. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act;

(c) determination of the price of the forfeited property under sub-section (2) of section 28;

(d) the procedure for admission and disposal of an application under sub-section (3) of section 36;

(e) the qualifications of the members of the Review Committee under sub-section (2) of section 37; and

(f) any other matter which is required to be, or may be, prescribed.

Orders and rules to be laid before both Houses of Parliament.

53. Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

THE SCHEDULE

[See sections 2(1)(m) and 35]

TERRORIST ORGANISATIONS

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLE HADIS.
6. JAISH-E-MOHAMMED/TAHRIK-E-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/HARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-UL-MUJAHIDEEN PIR PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LIBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND (NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK (PREPAK).
16. KANGLEIPAK COMMUNIST PARTY (KCP).
17. KANGLEI YAOL KANBA LUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)—PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
25. MAOIST COMMUNIST CENTRE (MCC), ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
26. AL BADR.
27. JAMIAT-UL-MUJAHIDDEN.
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM).

- 30. TAMIL NADU LIBERATION ARMY (TNLA).
- 31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT).
- 32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES).

Repeal and
Saving.

8. (1) The Unlawful Activities (Prevention) Amendment Ordinance, 2004 is hereby Ord. 2 of 2004.
repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Central Government has been concerned with the manner in which provisions of the Prevention of Terrorism Act, 2002 were being grossly misused in the past two years. Accordingly, it was felt necessary to repeal the Act. Since the Parliament was not in session, the Prevention of Terrorism (Repeal) Ordinance, 2004 was promulgated. The Prevention of Terrorism (Repeal) Bill, 2004 is separately being introduced in Parliament.

2. At the same time, the Government is also firm in its resolve not to compromise in the fight against terrorism which poses a serious threat to our national security and also at the global level. India has also been a front-runner in the global fight against terrorism and given certain commitments in this regard, particularly in terms of the United Nations Security Council Resolution, 1373, dated the 28th September, 2001. For this reason, such legal provisions, as are considered necessary to deal with various facets of terrorism, are proposed to be incorporated in the Unlawful Activities (Prevention) Act, 1967.

3. To give effect to the above objective, the Unlawful Activities (Prevention) Amendment Ordinance, 2004 was promulgated on 21-9-2004. The Unlawful Activities (Prevention) Amendment Bill, 2004 seeks to replace the said Ordinance.

NEW DELHI;
The 23rd November, 2004.

SHIVRAJ V. PATIL.

FINANCIAL MEMORANDUM

The Unlawful Activities (Prevention) Amendment Bill, 2004 provides, *inter alia* for constitution of one or more Review Committees by the Central Government for review of applications filed by the applicants against the decisions of the Central Government to remove organisations from the Schedule of the terrorist organisation. Some expenditure of a recurring nature will have to be made in connection with the Review Committee. As it is not possible at this stage to visualize the number of such Review Committees that may have to be constituted, it is not possible to give an exact estimate of the actual expenditure that may have to be incurred in this behalf.

There is no other provision in the proposed Bill involving recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 52 as contained in clause 7 of the Unlawful Activities (Prevention) Amendment Bill, 2004 empowers the Central Government to make rules for carrying out the provisions of the Act. The various matters in relation to which such rules may be made, have been enumerated in detail under various clauses of sub-section (2) of the said section and relate to the service of notices or orders issued or made under the said Act and the manner in which such notices or orders may be served; where the person to be served is a corporation, company, bank or other association, the procedure to be followed by the tribunal or a District Judge in holding any inquiry or disposing of any application under the said Act; determination of the price of the forfeited property under sub-section (2) of section 28 of the said Act; the procedure for admission and disposal of an application under sub-section (3) of section 36 of the said Act; the qualifications of the members of the Review Committee under sub-section (2) of section 37 of the said Act; and any other matter which is required to be, or may be prescribed.

The matters in respect of which the rules may be made are the matters of detail necessary for carrying out the provisions of the said Act. The delegation of legislative powers is, therefore, of a normal character.

BILL NO. 92 OF 2004

A Bill to repeal the Prevention of Terrorism Act, 2002.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

- | | |
|---|--------------------------------------|
| 1. (1) This Act may be called the Prevention of Terrorism (Repeal) Act, 2004. | Short title and commencement. |
| (2) It shall be deemed to have come into force on the 21st day of September, 2004. | |
| 2. (1) The Prevention of Terrorism Act, 2002 (hereinafter referred to as the principal Act) is hereby repealed. | Repeal of Act 15 of 2002 and saving. |
| (2) The repeal of the principal Act shall not affect— | |
| (a) the previous operation of, or anything duly done or suffered under the principal Act, or | |
| (b) any right, privilege or obligation or liability acquired, accrued or incurred under the principal Act, or | |

(c) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and, any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the principal Act had not been repealed:

Provided that notwithstanding anything contained in this sub-section or in any other law for the time being in force, no court shall take cognizance of an offence under the principal Act after the expiry of the period of one year from the commencement of this Act.

(3) Notwithstanding the repeal of section 60 of the principal Act, the Review Committee constituted by the Central Government under sub-section (1) of that section, whether or not an application under sub-section (4) of that section has been made, shall review all cases registered under the principal Act as to whether there is a *prima facie* case for proceeding against the accused thereunder and such review shall be completed within a period of one year from the commencement of this Act and where the Review Committee is of the opinion that there is no *prima facie* case for proceeding against the accused, then,—

(a) in cases in which cognizance has been taken by the Court, the cases shall be deemed to have been withdrawn; and

(b) in cases in which investigations are pending, the investigations shall be closed forthwith,

with effect from the date of issuance of the direction by such Review Committee in this regard.

(4) The Review Committee constituted by the Central Government under sub-section (1) of section 60 of the principal Act shall, while reviewing cases, have powers of a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) discovery and production of any document;

(b) requisitioning any public record or copy thereof from any court or office.

(5) The Central Government may constitute more Review Committees, as it may consider necessary, for completing the review within the period specified in sub-section (3).

3. (1) The Prevention of Terrorism (Repeal) Ordinance, 2004 is hereby repealed. Ord. 1 of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Terrorism Act, 2002 was enacted as a special law to deal with terrorist acts.

2. There have been allegations of gross misuse of the provisions of the Act by some State Governments. Views have been expressed that provisions of the Act were misused in cases where they should not have been invoked. It has also been observed in various quarters that the Act has, failed to serve its intended purpose and as a result, there have been persistent demands that this Act should be repealed.

3. The Government has been concerned with the manner in which provisions of the Act were grossly misused in the past two years. It was, therefore, felt necessary to repeal the Act. As Parliament was not in session, the Prevention of Terrorism (Repeal) Ordinance, 2004 was promulgated on 21-9-2004. The Ordinance empowers the Central Review Committee to review all cases pending in the courts or at various stages of investigation and complete the review within the period of one year from the date of repeal of the Act and to give its directions. Whenever, in the opinion of the Central Review Committee no *prima facie* case is made out either in respect of cases pending in the courts, or under investigation, such cases shall be deemed to have been withdrawn and investigation closed, as the case may be.

4. The Prevention of Terrorism (Repeal) Bill, 2004 seeks to replace the Prevention of Terrorism (Repeal) Ordinance, 2004 and to achieve the above objects.

NEW DELHI;
The 23rd November, 2004

SHIVRAJ V. PATIL.

FINANCIAL MEMORANDUM

The Prevention of Terrorism (Repeal) Bill, 2004 seeks to repeal the Prevention of Terrorism (Repeal) Ordinance, 2004. The Ordinance empowers the Central Review Committee constituted under the Prevention of Terrorism Act, 2002, to review all cases pending in the courts or at various stages of investigation within the period of one year from the date of the repeal of the Act. Further, the Central Government may constitute more Review Committees as it may consider necessary for completing the review within the specified period of one year. A total of three Review Committees have been constituted. The expenditure of the Review Committees is likely to be about Rs. 2.5 crores per annum. There is no other provision in the proposed Bill involving recurring or non-recurring expenditure.

G. C. MALHOTRA,
Secretary-General.